

FINAL INVESTIGATIVE REPORT

SCOPE OF INVESTIGATION

The City of San Fernando contracted Norman A. Traub Associates to conduct a personnel investigation in order to determine the facts and circumstances surrounding a citizen complaint, alleging misconduct, including unprofessional and improper treatment of a two male detainees during a traffic stop by Officers of the San Fernando Police Department.

[REDACTED] was assigned to conduct the investigation. During the course of the investigation interviews were conducted, documents and other items of evidence were gathered, reviewed and assessed.

INTRODUCTION AND BACKGROUND

On 2/23/15, [REDACTED] and [REDACTED] were recklessly operating vehicle, doing donuts in a local parking lot. Officers [REDACTED] Bayardo, [REDACTED] and [REDACTED] observed the exhibition of speed and detained the two young men. Sergeant [REDACTED] also responded to the scene. [REDACTED] and [REDACTED] allege that the officers told them that they would not be arrested if they went home, shaved their heads, and returned to the police station to provide evidence they had complied. They allege the officers retained [REDACTED] drivers license to ensure their return. [REDACTED] further alleges that Officer Bayardo took his LAPD explorer/cadet jacket from his vehicle without justification, and never returned it.

It was subsequently determined by the City of San Fernando there should be an outside, independent investigation conducted which was limited in scope to the issues relative to the surrounding facts and circumstances regarding the propriety of the detention and interaction between the officers and complainants. Norman A. Traub Associates was retained to conduct an independent investigation.

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

EXECUTIVE SUMMARY

1. It is alleged that on 2/23/15 at approximately 0850 hours, at the parking lot located at 2040 Glen Oaks Blvd., San Fernando, **Officer [REDACTED] Bayardo**, while on duty, acted inappropriately and unprofessionally, when he stated to detainee [REDACTED], "What the fuck is wrong with you, dude?"

SUSTAINED

2. It is alleged that on 2/23/15 at approximately 0850 hours, at the parking lot located at 2040 Glen Oaks Blvd., San Fernando, **Officer [REDACTED] Bayardo**, while on duty, acted inappropriately when he confiscated an LAPD explorer/cadet jacket belonging to [REDACTED] without legal justification, failing to return or account for it.

SUSTAINED

3. It is alleged that on 2/23/15 at approximately 0850 hours, at the parking lot located at 2040 Glen Oaks Blvd., San Fernando, **Officer [REDACTED] Bayardo**, while on duty, acted inappropriately when he told [REDACTED] and/or [REDACTED] and/or agreed, that [REDACTED] would not be arrested for reckless driving if he and/or [REDACTED] would shave their heads.

SUSTAINED

4. It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, **Officer [REDACTED] Bayardo**, while on duty, was untruthful when he stated he did not confiscate [REDACTED] explorer/cadet jacket during his detention on 2/23/15.

SUSTAINED

5. It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, **Officer [REDACTED] Bayardo**, while on duty, was untruthful when he stated there was no discussion or mention of "Sideshow Bob" during the detention of [REDACTED] and [REDACTED] on 2/23/15.

SUSTAINED

6. It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, **Officer [REDACTED] Bayardo**, while on duty, was untruthful when he stated there was no profanity directed at [REDACTED], by him or any other officer, during his detention on 2/23/15.

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

SUSTAINED

7. It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, **Officer [REDACTED] Bayardo**, while on duty, was untruthful when he stated he had "no idea" why [REDACTED] and [REDACTED] shaved their heads on 2/23/15, shortly after their detention.

SUSTAINED

8. It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, **Officer [REDACTED] Bayardo**, while on duty, was untruthful when he stated neither he, nor any other officer, told [REDACTED] and/or [REDACTED] that [REDACTED] would not be arrested if he, and/or [REDACTED] would shave their heads, during their detention on 2/23/15.

SUSTAINED

METHODOLOGY

The investigation began with a meeting between the investigator and Lieutenant [REDACTED] Support Services and Detective Division Commander, who had conducted a preliminary investigation into this matter. She provided several relevant documents and information. Numerous witnesses were determined and interviewed. Documents and additional relevant information were obtained. Applicable San Fernando Police Department and City policies and state law were researched and reviewed.

All witness interviews were recorded and summarized in writing. All statements and evidence were investigated and analyzed, and this report of findings and conclusions was prepared. All relevant evidentiary items and documents were catalogued and are included in the ADDENDA to this report.

ALLEGATIONS AND FINDINGS

ALLEGATION #1

[REDACTED]

CITY OF SAN FERNANDO
CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED]
[REDACTED]

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]

The finding on this allegation is **SUSTAINED**

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

CONFIDENTIAL PERSONNEL INVESTIGATION

114 115

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

CITY OF SAN FERNANDO
CONFIDENTIAL PERSONNEL INVESTIGATION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

✓ [REDACTED]

✓ [REDACTED]

[REDACTED]

[REDACTED]

✓ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CITY OF SAN FERNANDO
CONFIDENTIAL PERSONNEL INVESTIGATION

[REDACTED]

[REDACTED]

/s.

[REDACTED]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CITY OF SAN FERNANDO
CONFIDENTIAL PERSONNEL INVESTIGATION
IN RE: [REDACTED] BAYARDO, POLICE OFFICER - DECEMBER 2015

[REDACTED]

[REDACTED]

[REDACTED]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED]

ALLEGATION #4

It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, Officer [REDACTED] Bayardo, while on duty, was untruthful when he stated he did not confiscate [REDACTED] [REDACTED] explorer/cadet jacket during his detention on 2/23/15.

- [REDACTED]
- 1-101.02F SFPD Manual – Integrity
- [REDACTED]
- 2-501.02C(5) SFPD Manual – Dishonesty
- 2-501.02C(20) SFPD Manual – Material misstatement of fact
- [REDACTED]
- [REDACTED]

The finding on this allegation is **SUSTAINED**

DISCUSSION OF THE EVIDENCE – ALLEGATION #4

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED] stated when he was stopped by the police, he had an LAPD explorer jacket in the back seat. The jacket belonged to him. He had been an explorer for a couple of years and was allowed to keep the jacket. While Bayardo was searching his vehicle, he grabbed the jacket and asked which one of the subjects was an explorer. [REDACTED] replied he had. Bayardo said the jacket didn't belong to him and he was going to take it and give it back to the rightful owners. He said he was going to take it to an LAPD station. He asked [REDACTED] which station he had been assigned as an explorer. He replied Mission. Bayardo put the jacket in his police vehicle's trunk. [REDACTED] never saw the jacket again.

[REDACTED] stated the first Hispanic officer was searching the vehicle and found [REDACTED] police explorer jacket. The officer told [REDACTED] he wasn't supposed to have that and took it. The officers handcuffed both [REDACTED] and [REDACTED] [REDACTED] was placed in the back seat of the police vehicle by this officer.

[REDACTED] ([REDACTED] mother) stated the explorer jacket legally belonged to her son, [REDACTED] and had been given to him after he resigned from the LAPD Explorer/Cadet Program.

Officer [REDACTED] Bayardo stated he saw the explorer jacket on top of [REDACTED] vehicle but he did not take it. He did not believe any of the officers took it. The driver told him he had been an LAPD police explorer when he was telling him about his father. Bayardo was asked about the jacket.

BAYARDO:	Whoever searched the vehicle—I don't recall who searched the vehicle—but there was an explorer jacket in the vehicle.
INVESTIGATOR:	And what happened to that jacket?
BAYARDO:	It was in the vehicle.
INVESTIGATOR:	Did it remain in the vehicle?
BAYARDO:	Yes.
INVESTIGATOR:	Nobody took it?
BAYARDO:	No.
INVESTIGATOR:	You didn't take it?
BAYARDO:	No.
INVESTIGATOR:	You're sure?
BAYARDO:	Yes.
INVESTIGATOR:	Ok. Do you know why he would be claiming you took it?
BAYARDO:	The driver?
INVESTIGATOR:	Yeah.
BAYARDO:	Um...no. I don't even know why he's claiming we told him to shave his head, but, it's so.

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

Officer [REDACTED] stated he recalled seeing a black LAPD police explorer jacket in the back seat of [REDACTED] vehicle. [REDACTED] did not touch the jacket, neither did he observe any other officer touch the jacket. He did not recall hearing Bayardo talk to [REDACTED] about the jacket. He did not talk to Bayardo about the jacket. He never saw the jacket again after that.

Officer [REDACTED] stated he did not see an explorer jacket at the scene of the stop, but approximately a half an hour after they cleared the scene, at the police station, in the report writing room, he saw a black satin-type jacket with an LAPD Explorer badge sewn to the chest, hanging from the back of a chair. He recognized the jacket because he worked for LAPD at one time. He did not know who the jacket belonged to or where it came from.

INVESTIGATOR NOTE: The audio recording taken from [REDACTED] iPhone [ADDENDA #11] includes an exchange between [REDACTED] and Bayardo regarding the explorer jacket.

BAYARDO: Whose jacket is...explorer? I know it's not one of you, is it?
[REDACTED] That's me sir.
BAYARDO: You're an explorer?
[REDACTED] I used to be.
BAYARDO: Used to be.
[REDACTED] Not anymore.
BAYARDO: Why you still have the jacket?
[REDACTED] I just...never took it back.
BAYARDO: *I'll take care of that for you.*

INVESTIGATOR NOTE: On 9/23/15 I spoke with SFPD Lieutenant [REDACTED]. She stated she did a records search and found no property or evidence turned in or connected as a part of the [REDACTED] traffic stop, citation or vehicle impound. She also contacted the Property Clerk and had him do further research. There was no record of the explorer jacket being turned in as evidence or property, nor did a physical inspection of the property section turn up the jacket. A search of the SFPD men's locker room was also conducted. The jacket was not found.

INVESTIGATOR NOTE: Prior to his interview, Officer Bayardo was served and signed a memo, dated 6/9/15 [ADDENDA #12] ordering him to appear for an interview with this investigator regarding an official investigation on the Hernandez incident. He was ordered to cooperate, and to ***"...truthfully respond to all questions posed during the interrogation. Please be advised that your failure to cooperate...or to respond to questioning in the interview related to this investigation shall result in punitive action being instituted against you,***

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

including possible discharge from employment.” The memo was written by the Chief of Police, [REDACTED] Valro, and served by Lieutenant [REDACTED]

INVESTIGATIVE FINDING: The evidence appears clear that Officer Bayardo took [REDACTED] LAPD police explorer jacket. In his own words, he told [REDACTED] he would “...take care of that for you.” There is also direct evidence the jacket was taken from the vehicle and found its way to the police station, as stated by Officer [REDACTED]. This means it could have only been confiscated by one of the officers. Bayardo's untruthful response is of concern in his continuing capacity as a police officer. Beyond this, the fact that the jacket was never properly inventoried or recovered should be of great concern.

ALLEGATION #5

It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, Officer J. [REDACTED] Bayardo, while on duty, was untruthful when he stated there was no discussion or mention of “Sideshow Bob” during the detention of Alex Hernandez and [REDACTED] on 2/23/15.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- 2-501.02C(5) SFPD Manual – Dishonesty
- 2-501.02C(20) SFPD Manual – Material misstatement of fact
- [REDACTED]
- [REDACTED]
- [REDACTED]

The finding on this allegation is **SUSTAINED**

DISCUSSION OF THE EVIDENCE – ALLEGATION #5

[REDACTED], Officer [REDACTED], Officer [REDACTED], Sergeant [REDACTED] all stated the character “Sideshow Bob” was discussed at the scene of the traffic stop. It was in reference to [REDACTED], who at the time had long, bushy and curly hair, much like the character, Sideshow Bob, from the Simpsons cartoons. [ADDENDA #10]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

Officer [REDACTED] Bayardo stated the character "Sideshow Bob" was never brought up or discussed during the traffic stop of [REDACTED] and [REDACTED]. The officers later discussed it at their meal break. Bayardo was asked directly about it during his interview.

INVESTIGATOR: Was there any conversation about Sideshow Bob?
BAYARDO: With them?
INVESTIGATOR: Uh huh.
BAYARDO: No.
INVESTIGATOR: Never?
BAYARDO: With...
INVESTIGATOR: With the subjects.
BAYARDO: No.
INVESTIGATOR: Was there with anyone?
BAYARDO: Yes.
INVESTIGATOR: Who?
BAYARDO: Um...amongst us...after...when we went to eat. The conversation came out amongst us.
INVESTIGATOR: So there was no conversation at the scene about Sideshow Bob?
BAYARDO: No.

INVESTIGATOR NOTE: The [REDACTED] iphone audio tape of the incident clearly indicates Sergeant [REDACTED] mentioned Sideshow Bob, and a brief discussion about the character followed. [ADDENDA #11]

[REDACTED] What are you going to with Sideshow Bob?
BAYARDO: Uhhh...(unintelligible)
[REDACTED] (laughter)
BAYARDO: You never seen that? You never...?
[REDACTED] Sideshow Bob.
[REDACTED] (laughter) You're not a Simpsons fan?
(unintelligible)
BAYARDO: That's your phone, right? You have internet access? You're going to get it back in a little bit. Google it.

INVESTIGATOR NOTE: Prior to his interview, Officer Bayardo was served and signed a memo, dated 6/9/15 [ADDENDA #12] ordering him to appear for an interview with this investigator regarding an official investigation on the [REDACTED] incident. He was ordered to cooperate, and to **"...truthfully respond to all questions posed during the interrogation. Please be advised that your failure to cooperate...or to respond to questioning in the interview related to this investigation shall result in punitive action being instituted against you,**

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

including possible discharge from employment. The memo was written by the Chief of Police, [REDACTED] Vairo, and served by Lieutenant [REDACTED]

INVESTIGATIVE FINDING: The evidence is overwhelming the topic of Sideshow Bob was discussed by the officers and subjects at the scene of the traffic stop. It is doubtful Bayardo could have forgotten this, since it was the catalyst for the subsequent discussion of head shaving. This may explain Bayardo's reluctance to admit the topic was discussed.

ALLEGATION #6

It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, [REDACTED] Bayardo, while on duty, was untruthful when he stated there was no profanity directed at [REDACTED], by him or any other officer, during his detention on 2/23/15.

- [REDACTED]
- 1-101.02F SFPD Manual – Integrity
- [REDACTED]
- 2-501.02C(5) SFPD Manual – Dishonesty
- 2-501.02C(20) SFPD Manual – Material misstatement of fact
- [REDACTED]
- [REDACTED]
- [REDACTED]

The finding on this allegation is **SUSTAINED**

DISCUSSION OF THE EVIDENCE – ALLEGATION #6

[REDACTED] stated he and his friend, [REDACTED], were doing donuts in the Walgreen's parking lot, when they were stopped by three officers. Officer Bayardo told him to "Get out of the fucking car! Get your hands in the air!" He said "What the fuck are you thinking, man? Do you have a fucking license?" He replied, "Yes, sir." Bayardo said, "Now you don't!"

[REDACTED] stated he was the passenger in [REDACTED] vehicle when they were doing donuts in the parking lot. He was videotaping their activities on [REDACTED] iPhone. When

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

the officers stopped them, they told him to "Get out of the fucking car!" [REDACTED] placed the phone on the roof of the vehicle. The phone was still recording and picked up the audio of what the officers were saying. The main officer who dealt with [REDACTED] was a male Asian.

Officer [REDACTED] Bayardo stated he never directed any profanity towards [REDACTED] or [REDACTED] at the scene. He was asked directly during his interview:

INVESTIGATOR: When you initially contacted the subjects there, when you stopped them, was there any profanity directed at them?

BAYARDO: No.

INVESTIGATOR: By you or any of the other officers?

BAYARDO: Um...no...I...if I'm...to the best of my recollection I was the only one doing the talking. I don't ever recall hearing any other voices...any of the officers' voices. So, no, no profanity.

INVESTIGATOR NOTE: A review of the audio recording from Hernandez' iPhone [ADDENDA #11 – transcript] confirms Bayardo made the statement, "What the fuck is wrong with you, dude? A copy of the audio is contained in the back of this binder.

INVESTIGATOR NOTE: Prior to his interview, Officer Bayardo was served and signed a memo, dated 6/9/15 [ADDENDA #12] ordering him to appear for an interview with this investigator regarding an official investigation on the [REDACTED] incident. He was ordered to cooperate, and to **"...truthfully respond to all questions posed during the interrogation. Please be advised that your failure to cooperate...or to respond to questioning in the interview related to this investigation shall result in punitive action being instituted against you, including possible discharge from employment."** The memo was written by the Chief of Police, [REDACTED] Vairo, and served by Lieutenant [REDACTED]

INVESTIGATIVE FINDING: Bayardo was untruthful when he stated he did not direct any profanity at [REDACTED]. The voice on the audio/video directing profanity towards Complainant [REDACTED] was clearly identified as that of Officer Bayardo by both the investigator and Lieutenant [REDACTED].

ALLEGATION #7

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, Officer [REDACTED] Bayardo, while on duty, was untruthful when he stated he had "no idea" why [REDACTED] and [REDACTED] shaved their heads on 2/23/15, shortly after their detention.

- [REDACTED]
- 1-101.02F SFPD Manual – Integrity
- [REDACTED]
- 2-501.02C(5) SFPD Manual – Dishonesty
- 2-501.02C(20) SFPD Manual – Material misstatement of fact
- [REDACTED]
- [REDACTED]

The finding on this allegation is **SUSTAINED**

ALLEGATION #8

It is alleged that on 8/5/15 at approximately 1517 hours, during an official investigation at the San Fernando Police Department, Officer [REDACTED] Bayardo, while on duty, was untruthful when he stated neither he, nor any other officer, told [REDACTED] and/or [REDACTED] that [REDACTED] would not be arrested if he, and/or [REDACTED] would shave their heads, during their detention on 2/23/15.

- [REDACTED]
- 1-101.02F SFPD Manual – Integrity
- [REDACTED]
- 2-501.02C(5) SFPD Manual – Dishonesty
- 2-501.02C(20) SFPD Manual – Material misstatement of fact
- [REDACTED]
- [REDACTED]

The finding on this allegation is **SUSTAINED**

DISCUSSION OF THE EVIDENCE – ALLEGATIONS #7 and 8

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

[REDACTED] stated after Bayardo had stopped him, at some point he apparently was unsure what to do and called a sergeant. When the sergeant arrived, he said, "Who's this guy?" Bayardo ordered him to tell the sergeant why he was there. The sergeant told Bayardo to do what he wanted. Bayardo handcuffed [REDACTED] and placed him in the back of his police car. This surprised [REDACTED] because he believed he was only going to be cited and released. The officers talked to [REDACTED] for about ten minutes. Bayardo then returned and let him ([REDACTED]) out of the police car, and walked him to the front of his own car, where [REDACTED] and the other two officers were. The sergeant was still there, standing approximately four feet behind [REDACTED].

During that time one of the officers said, "What are we going to do with Sideshow Bob here?" He was referring to [REDACTED]. [REDACTED] asked who that was. They told him it was a character from *The Simpsons*. [See ADDENDA #10 for likeness of "Sideshow Bob," a character on the TV show, *The Simpsons*, whose primary physical characteristic is his long, bushy hair.] They told him to google it on his phone, which he did. [This is where the video/audio from [REDACTED] iphone ends] It was at this time the officers asked [REDACTED] to cut his hair in exchange for the release of [REDACTED]. [REDACTED] agreed to shave his head. Bayardo said to [REDACTED] "It's your lucky day today. How close are you to [REDACTED] here?" [REDACTED] replied they were "super close" friends. Bayardo told him [REDACTED] had agreed to cut his hair for [REDACTED] in order to keep him ([REDACTED]) from being arrested. The other officer said, "And you better do it with him too. Cause that's your best friend. He's taking a hit for you." [REDACTED] agreed to shave his head along with [REDACTED]. Bayardo said he would let [REDACTED] go but he was still going to impound his car. Bayardo added they would have to come to the police station to prove they had shaved their heads. Bayardo then uncuffed [REDACTED]. Bayardo held up [REDACTED] drivers license to his face and said, "Come in [to the police station] if you want your license." Bayardo kept his license. [REDACTED] then mentioned to the officers his father had been an LAPD officer. He also told them his father had passed away. The officers started to be nicer to him at that point. The sergeant [REDACTED] then offered, "[REDACTED] do you want a ride [home] to go get your car so you can pick up [REDACTED] to get his haircut?" [REDACTED] agreed, and the sergeant then drove him home, where he got his own vehicle and drove back to pick up [REDACTED] a few minutes later.

[REDACTED] stated the officers were making fun of [REDACTED] hair because it is long and curly. They said he looked like a Simpson's character, "Sideshow Bob." He was allowed to look up the character on his iphone. He could not recall which officer first called him Sideshow Bob, but all the officers joined in, saying he looked like that character. One of the officers (he could not recall which officer) told him if he would cut his hair they would let [REDACTED] go and not arrest him. He couldn't believe the officer was being serious. [REDACTED] said he would do it. He was looking at the officers to see if they were kidding him. He asked, "Is this going to happen?" The officer answered, "Yeah, cut your hair!" The

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

officer reiterated they would not arrest [REDACTED] if [REDACTED] would cut his hair. [REDACTED] again said he would do it.

The first Hispanic officer [Bayardo] then got [REDACTED] out of the police car and brought him over to where [REDACTED] and the other officers were standing. The Hispanic officer told [REDACTED] that [REDACTED] had agreed to cut his hair so he ([REDACTED]) could go free. The officer said if [REDACTED] was going to cut his hair, [REDACTED] should do it also. [REDACTED] agreed to cut his hair. The officers then asked how they would arrange it so they could be sure the subjects cut their hair. One officer said he would keep [REDACTED] license, and they would have to cut their hair and come to the station within two hours to get his license back. [REDACTED] and [REDACTED] agreed to do this. The Asian officer then took a photo of the two subjects on his cell phone. The second Hispanic officer [REDACTED] took [REDACTED] to [REDACTED] house to pick up his ([REDACTED]) vehicle so he could return to pick up [REDACTED]. This officer [REDACTED] was aware of the other officers' order for them to shave their heads; [REDACTED] had a discussion with him about it, telling the officer he didn't have much time and had to pick up [REDACTED] so they could shave their heads and get back to the station in time.

Officer [REDACTED] Bayardo stated about a minute after stopping the vehicle, he got the driver out of the vehicle. He patted the driver down and walked him to the back of the police car and explained to him he was being placed under arrest for reckless driving. He handcuffed the driver and placed him in the back of the police car. He told dispatch he was going "10-15" (transporting prisoner to jail). Both the driver and passenger were "extremely cooperative." The driver told Bayardo his father had been a police officer and had passed away. Bayardo felt sorry for the driver, and decided to talk to his sergeant about not arresting the driver. He saw the driver had a clean record on the computer. Bayardo called Sergeant [REDACTED] to the scene and informed him about his intention to release and not arrest the driver. He did this as a "courtesy" to [REDACTED] to explain to him why he had changed his mind about arresting the driver. He told [REDACTED] the driver had been very respectful and that his father was a police officer who had passed away. [REDACTED] said it was his (Bayardo's) decision whether to arrest or release the driver.

Bayardo then got the driver out of the police car, walked him to the front of the suspect vehicle and uncuffed him, informing him he would not arrest him, but he would cite him, and he had to impound his vehicle, or "rip your ride." There was then some discussion about how bad his "lookout" (passenger) had been to not see the police so close by. The passenger felt bad for being such a bad lookout and offered to shave his head if they would not arrest the driver. There was never any conversation with the subjects about "Sideshow Bob." Bayardo denied ever asking the subjects to shave their heads. He did retain [REDACTED] the drivers license, but stated he simply forgot to give it back to him. About two hours after releasing the subjects, they showed up as the police station. When

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

asked if he knew why they came to the station, Bayardo stated they came to get the driver's license back. Bayardo returned his license. When they came to the station, they had both shaved their heads.

INVESTIGATOR: Was there anything unusual about them, when you saw them the second time?

BAYARDO: Um, Yes.

INVESTIGATOR: What was that?

BAYARDO: They both shaved their heads.

INVESTIGATOR: Do you know why?

BAYARDO: I have no idea.

INVESTIGATOR: Was that ever discussed when you had originally stopped them, about cutting their hair?

BAYARDO: No. Discussed from us? No.

[Later in the interview]

INVESTIGATOR: Did you ask them why they cut their hair?

BAYARDO: No.

INVESTIGATOR: Did they tell you why they cut their hair?

BAYARDO: No.

INVESTIGATOR: You were never curious why those guys cut their hair?

BAYARDO: No.

Later in the interview, Bayardo was asked more specifically about why the subjects shaved their heads prior to coming to the police station.

INVESTIGATOR: So why do you think these guys shaved their heads?

BAYARDO: To...I can't really speculate...to show that...you know...um...to show that they were...uh...cool with the...with the whole...you know...um...stop?

INVESTIGATOR: When you say that they were cool with the stop. Explain that, what you mean by that.

BAYARDO: That there was no...um...the best thing I think was that...you know...the passenger said he was going to shave his head. Um...he...he thought...he might have taken it...he might have been serious about it...um...about shaving his head...and...for us...for us...or at least for me, I can care...I can care less if he has...his head shaved, cut, or what he has on his head. Um...so by him saying that he was going to do it, and then he did it, just kind of saying, ok, you know what? I said I was going to do it, I did it. So, we're cool with this whole thing. Now why did the driver do it? I don't know, to show solidaridad [solidarity] with his...uh...friend, or for support? I don't know.

INVESTIGATOR: Ok, so did you ever tell the driver that if he shaved his head, um, and came back to the station, that you would give him his license back?

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

BAYARDO: No sir.
INVESTIGATOR: Did you ever tell him that you wouldn't, he wouldn't be arrested if he shaved his head, and then showed you that he had done so?
BAYARDO: Absolutely not.
INVESTIGATOR: Ok, did you ever ask him to shave his head?
BAYARDO: No.
INVESTIGATOR: Did you ever hear him say he would shave his head while he was in your, not custody, but while he was detained by you?
BAYARDO: No.
INVESTIGATOR: The passenger...well as far as you know the passenger just said he was willing to do it.
BAYARDO: Correct.
INVESTIGATOR: Did he ever tell you he was going to do it?
BAYARDO: No.
INVESTIGATOR: Did you ever ask him to do it?
BAYARDO: No.
INVESTIGATOR: Did any other officer ask him to do it, I mean to shave his head?
BAYARDO: Um, not to my knowledge, not while I was stand there.
INVESTIGATOR: Did any other officer ask the driver to shave his head?
BAYARDO: No.
INVESTIGATOR: [Later in the interview]
I may have said this, but I want to make sure I'm clear, there was never any agreement, or offer from you to the subjects that if they shaved their heads you would cite rather than arrest?
BAYARDO: Correct, there was never any agreement.

Officer [REDACTED] stated at some point while he was searching the passenger, the officers "related" [compared] the passenger to "Sideshow Bob," a character on the Simpsons. This was after this subject said his long hair made him a bad lookout for his friend. [REDACTED] could not recall which officer called him Sideshow Bob. He could not recall "how it came about," but the passenger said he would shave his head if they would let his friend go and not arrest him. The passenger was talking to [REDACTED] [REDACTED] Bayardo and Sergeant [REDACTED] who had arrived onscene. They all heard the passenger offer to shave his head. To his recollection, the officers did not tell the passenger to shave his head, or make him the offer to let his friend go. The officers were all "joking" with the passenger. Bayardo went back to talk to the driver, who was still in the back of the police car. He talked to the driver some more, then got the driver out of the police car and brought him back to where they were all standing, between the subject's vehicle and Bayardo's vehicle. He was still handcuffed. The officers told the driver that the passenger had offered to shave his head on the driver's behalf. They all laughed about it. They didn't know the subjects would take it seriously, although [REDACTED] recalled someone telling

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER - DECEMBER 2015

the driver, "Hey, don't let your buddy do it [shave his head] alone." All the officers said words to the effect, "Yeah, don't leave him hanging." [REDACTED] believed they were joking. All four officers were still there at that point. They were all within a seven-foot circle. They all participated in the conversation. He did not recall any of the officers telling the subjects they needed to shave their heads. During the conversation, the driver mentioned he was "stressed out" because his father had been an LAPD officer, and had committed suicide. He showed them a tattoo of his father's badge on his chest. The officers all felt bad for the driver. The driver was released with only a citation.

Officer [REDACTED] stated he and [REDACTED] were watching the passenger, while Bayardo was dealing with the driver. [REDACTED] was there with them. Someone made the comment the passenger looked like Sideshow Bob from the Simpsons. He could not recall which officer made that statement. The passenger stated others had told him he reminded them of Sideshow Bob, but he didn't know who that was. The passenger asked if he was willing to cut his hair, would they agree to not arrest the driver, who was his friend. [REDACTED] could not recall if any of the officers responded to that comment. He believed Bayardo was present to hear that comment. None of the officers asked or ordered the subjects to shave their heads in exchange for the drivers' release. At some point, Bayardo got the driver out of the police car and brought him back to the front of the vehicle with the rest of the group. [REDACTED] was unsure when that was, but believed Bayardo and the driver were there when the passenger offered to shave his head. **The driver made the comment the passenger was a true friend and offered to shave his own head also.** [REDACTED] took a photo of the two subjects. [REDACTED] did not know why he did that. [REDACTED] was asked what was said immediately after the subject offered to shave his head.

INVESTIGATOR: Did anyone respond to him? Any officer?

OFFICER [REDACTED] I don't remember.

INVESTIGATOR: So is anyone telling them, 'No, don't cut your hair,' or 'You don't have to cut your hair,' or anything like that?

OFFICER [REDACTED] I don't remember.

INVESTIGATOR: Do you know if, based on the conversation, those subjects left with the impression they needed to cut their hair?

OFFICER [REDACTED] No.

The driver also told the officers that his father was an LAPD officer who had committed suicide. Bayardo felt sympathetic toward the driver and took off his handcuffs and cited him instead of arresting him. They all felt sympathy for the driver.

Sergeant [REDACTED] stated he was called to the scene by Bayardo. Upon arrival Bayardo told him he had observed two subjects doing donuts in the parking lot and driving recklessly. He placed the driver under arrest for exhibition of speed, but was now having second thoughts and wanted release the suspect. He felt bad because the driver's father

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

had been an LAPD officer who recently passed away. [REDACTED] told him it was his decision based on his discretion whether to arrest or not. It was his impression Bayardo was not asking for permission, but rather advising [REDACTED] of his intentions.

Shortly thereafter, both subjects were uncuffed and allowed to stand on the right/front side of their vehicle. [REDACTED] talked to the driver. He somewhat lectured him on what he had done, telling him he needed to honor his father and make better choices. He also told him he could have lost control and hit a homeless man in the nearby shrubbery. The driver showed him his father's badge tattoo on his chest. Officers [REDACTED] and [REDACTED] were there with them. The passenger stated he should have been a better lookout for the driver. He should have seen the three police vehicles parked nearby. He made a comment about his long hair being in his face, obstructing his view, and that maybe he should cut it. He made the comment that they made fun of him at work because of his long hair, that he looks like "Sideshow Bob" from the Simpsons cartoons. [REDACTED] stated he wasn't sure if he ([REDACTED] or the passenger brought this up. The passenger asked who Sideshow Bob was. [REDACTED] laughed and said, *"In a few minutes you can look it up on your phone."* Shortly thereafter the passenger looked it up on his phone and they all laughed about it. [REDACTED] never heard the passenger offer to cut his hair if they would let the driver go and not arrest him. He did not hear any officer tell the subjects to cut their or shave their heads in exchange for anything.

INVESTIGATOR: At any point was there a conversation about any of these kids cutting their hair?

[REDACTED] The only conversation that I heard about them cutting their hair was directly towards the passenger, about him not being to see the cops with his hair in his face, and that he probably should cut his hair next time they go and do something stupid so they don't get caught. Um, that was pretty much it.

INVESTIGATOR: Was he telling you, was he telling the officers or anyone that he was going to cut his hair?

[REDACTED] Um, not that I recall.

INVESTIGATOR: Did he ever mention that he would cut his hair if the officers would let his friend go?

[REDACTED] I don't remember hearing that from him at all. No.

INVESTIGATOR: Are you saying he didn't say it while you were there or...

[REDACTED] While I was there I didn't hear him say it, no. And he left with me. I took him back to his house.

Desk Officer [REDACTED] stated she had heard about the shaved head incident, and recalled recall being in the SFPD dispatch room one day on duty. She was not sure of the exact day, but recalled Officer Bayardo and Sergeant [REDACTED] talking about the two subjects who had shaved their heads by the coffee machine in or near dispatch. Bayardo admitted the officers had told the subjects they wouldn't go to jail if they shaved

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER - DECEMBER 2015

their heads. He was laughing about it. [REDACTED] asked "Why would you tell somebody to shave their head?" Bayardo replied, "I don't know." Bayardo said it was a joke and they didn't think the kids would actually do it. [REDACTED] didn't know from that conversation if Bayardo was the one who told the subjects to shave their heads or it was another officer. [REDACTED] said he couldn't believe they actually did it. He seemed more surprised than amused at the incident. He did not appear upset. Both Bayardo and [REDACTED] seemed to already be aware of the incident. Bayardo also said that one of the subject's mothers became upset about it. [REDACTED] believed Bayardo was on duty but [REDACTED] was not at the time of that conversation.

INVESTIGATOR NOTE: [REDACTED] iPhone audio tape of the incident sheds some light on the chronology of events, and the credibility of Bayardo and [REDACTED] statements. Bayardo claims he arrested [REDACTED] almost immediately after he made contact, and advised over the radio he had made an arrest and would be transporting to jail (10-15). He claims he changed his mind after he observed [REDACTED] to be extremely cooperative, and [REDACTED] told him about his deceased father, who had been an LAPD officer. At that point he claims he felt sorry for [REDACTED] and called [REDACTED] to respond and advise him he wished to cite [REDACTED] and not arrest. [REDACTED] statement echoes this. **Bayardo and [REDACTED] accounts are inconsistent with the audio tape.** Bayardo, in fact, did not advise the officers and dispatch he was taking [REDACTED] to jail until 0914 hours, approximately twenty-three minutes after the initial contact with [REDACTED] [ADDENDA #2] Further, this was well after [REDACTED] became aware [REDACTED] father was a deceased LAPD officer. [ADDENDA #11] After [REDACTED] advised, "I'm gonna 10-15 him," [REDACTED] responded, "What are you going to do with Sideshow Bob?" It was at this point—by all accounts—the discussion of [REDACTED] long hair and the proposition of the subjects shaving their heads began. It is clear it was not his sympathy for [REDACTED] that caused Bayardo to release him, which means there must be another explanation. [REDACTED] and [REDACTED] account of events at this point becomes much more credible than that of Bayardo and [REDACTED] particularly since they conflict with the other officers' and witness accounts.

INVESTIGATOR NOTE: Prior to their interviews, Officer Bayardo was served and signed a memo, [ADDENDA #12] ordering him to appear for an interview with this investigator regarding an official investigation on the [REDACTED] incident. He was ordered to cooperate, and to **"...truthfully respond to all questions posed during the interrogation. Please be advised that your failure to cooperate...or to respond to questioning in the interview related to this investigation shall result in punitive action being instituted against you, including possible discharge from employment."** The memo was written by the Chief of Police, [REDACTED] Vairo, and served by Lieutenant [REDACTED]

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

INVESTIGATIVE FINDING: The evidence is clear the officers made a deal with the subjects that if they would shave their heads, [REDACTED] would not be arrested, and further, once he and [REDACTED] returned to the station to prove they had shaved their heads, Bayardo would return [REDACTED] drivers license. Bayardo and [REDACTED] statements are inconsistent with the facts. Officer [REDACTED] admitted there were statements made by the officers encouraging or challenging [REDACTED] to shave his head, after [REDACTED] had allegedly volunteered to do so. Officer [REDACTED] admitted both subjects offered to shave their heads, which directly conflicts with Bayardo and [REDACTED] statements. Further, another police employee states she heard Bayardo admit that he told the subjects to shave their heads, while [REDACTED] was present. Finally, other facts support this allegation, including the fact Bayardo did admittedly keep [REDACTED] drivers license without a justifiable purpose, until they came to the police station to prove they shaved their heads. Also, why would Officer [REDACTED] take a before and after photo of the subjects (i.e., prior- and post-head shaving) if there wasn't a plan in place? [ADDENDA #8] There is also the obvious question: why else would these young men shave their heads? They certainly had nothing to gain by doing so, unless they wanted avoid jail, and obtain the return of [REDACTED] license, who at the time earned his living as a pizza delivery boy, and could not work without his license. The clear weight of evidence indicates Bayardo was untruthful when he stated, 1) he did not know why the subjects shaved their heads, and 2) there was no agreement for them to shave their heads in return for [REDACTED] release.

CREDIBILITY OF THE WITNESSES

The evidence is clear that—on the whole—the Complainants' ([REDACTED] and [REDACTED] statements are consistent with the facts, and are credible. On the other hand, the officers' statements have proven to be inaccurate, inconsistent with one another, and inconsistent with the facts. The officers were unaware there was an audio recording of the first part of this traffic stop. All indications are that this audio file was unintentionally recorded on [REDACTED] iphone, after [REDACTED] recording of their "drifting" in the parking lot was unexpectedly interrupted by the officers' intervention. Many of the facts in this incident came to light—providing material evidence—only because this tape was made and preserved.

CITY OF SAN FERNANDO

CONFIDENTIAL PERSONNEL INVESTIGATION

IN RE: [REDACTED] BAYARDO, POLICE OFFICER – DECEMBER 2015

Of particular concern are the statements of Officer Bayardo. He was untruthful regarding material facts in this investigation in at least five (5) separate instances. He clearly attempted to cover up and obscure the true facts in this incident.

CONCLUSION

This incident is unfortunate, and completely preventable. Police officers possess the authority to control the conduct of others. With this authority goes a great responsibility, not to abuse that power and take advantage of others. Officer Bayardo clearly took unfair advantage of [REDACTED] and [REDACTED] during their traffic stop. Despite the fact these young men were acting irresponsibly, unlawfully and even dangerously, Bayardo exceeded his authority by compelling them to shave their heads. Further, by confiscating [REDACTED] police explorer jacket, and then failing to account for it, Bayardo arguably committed a theft of personal property.